

Nixon, Andrea (DPU)

From: Lynch, Mike [Mike.Lynch@cityofboston.gov]
Sent: Wednesday, September 13, 2006 5:14 PM
To: Nixon, Andrea (DPU)
Cc: Mayor; Oates, Bill; Sinnott, William; DiMarzio, Dennis; Siegal, Dina; Sullivan, James (IGR); Toghil, Lindsay Anne; Sweeney, Mark
Subject: Reply comments of the city of Boston re CTV 06-1



Thomas M. Menino, Mayor
Mike Lynch, Director
Cable Communications/OTC/MIS
City of Boston
43 Hawkins Street, Boston, Massachusetts 02114
Telephone: 617/635-3112
Facsimile: 617/635-4475
E-mail: mike.lynch@ci.boston.ma.us

September 13, 2006

Andrea Nixon
Clerk, Cable Television Division
Dept. of Telecommunications and Energy
One South Station
Boston, MA 02111

RE :

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY, CABLE TELEVISION DIVISION

CTV 06-1, issued May 5, 2006, PROPOSED AMENDMENTS TO RULES AND REGULATIONS
GOVERNING THE CABLE TELEVISION LICENSING PROCESS

[The proposed regulations would revise 207 C.M.R. § 3.00 by establishing a new cable licensing process in a city or town where the issuing authority has previously granted at least one cable license, and the applicant seeks to offer cable television service in competition with the incumbent provider. The proposed regulations would also revise 207 C.M.R. § 3.09, governing appeals of an issuing authority's licensing decision. In addition, on its own motion, the Cable Division includes in this rulemaking proceeding a proposal to make a technical correction to 207 C.M.R. by changing "Community Antenna Television Commission" to "Community Antenna Television Division" in the title, and the reference "Commission" to "Division" in each instance it appears in the section.]

Dear Ms. Nixon:

On behalf of the Issuing Authority for the City of Boston, Mayor Thomas M. Menino, I would like to submit the attached responses to select questions posed by the Division following the August 23, 2006 CTV 06-01 Public Hearing on the March 16, 2006 rulemaking petition of Verizon New England d/b/a Verizon Massachusetts ("Verizon") filed with the Cable Division of the Massachusetts Department of Telecommunications and Energy ("Division" and "Department" or "DTE"). This petition, entitled "Petition of Verizon for Adoption of Competitive License Regulation," seeks new regulation imposing a three month limitation on the licensing process for competitive video entrants.

The City of Boston believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers.

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The local cable franchising process in Massachusetts functions well for Boston and for our providers and our residents. Supported by M.G.L. 166A, the franchising process works to establish a full build out by video providers in a timely fashion.

Recent reports on Verizon's ability to deliver services following franchising reveal an incredibly short window of time between the granting of franchises and video service delivery. Reports from trade associations show that Verizon was capable of delivering video with 6 – 12 months of receiving a franchise. In six Massachusetts communities, video service was delivered within days of receiving a franchise.

As indicated in our initial comments, we work with the industry to see that the needs of our local residents and communities are met while we balance the business needs of cable providers to utilize our Public Right of Way.

Working with the Commonwealth and other Massachusetts communities, we seek to make sure that good services and choice are available for all our residents and all our neighborhoods.

In Boston, we find that our PROW management processes afford swift and balanced access to our streets, involving the industries and providers in our policy development.

Further, Boston has demonstrated a strong track record of efficient management as a Local Franchising Authority (LFA).

The City of Boston therefore respectfully requests that the Commission do nothing to interfere with local government authority over franchising or to otherwise impair the operation of the local franchising process as set forth under state regulations (207 C.M.R.) and law, M.G.L. 166A with regard to either existing cable service providers or new entrants.

Respectfully submitted,
City of Boston, Massachusetts

By: Mike Lynch, Mayor's Cable Office
on behalf of the Issuing Authority,

Thomas M. Menino
Mayor of Boston
1 City Hall Square
Boston, Massachusetts

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Attachment

Boston Response to Questions for Individual Municipalities:

1. Who initially reviews cable license applications on behalf of the Issuing Authority in deciding whether to begin the licensing process pursuant to 207 C.M.R. § 3.02(2)? How soon after receipt of the application does this review begin?

The City of Boston's Issuing Authority is the Mayor and the administration has a Cable office which would commence a review upon receipt of a Form 100.

2. Has the municipality established a Cable Advisory Committee? Is this a standing committee? When is the committee in session? How often does the Competitive Franchising Rulemaking CTV 06-1 committee meet? What are the terms of its members? Who may serve on the committee? How soon after a cable license application is submitted to the municipality does the Cable Advisory Committee receive application materials and begin its review?

The City of Boston's administration established a cable task force in 1996 which includes a number of city agencies, including the MIS Cable Office, the COO, Corporation Counsel, Public Improvement Commission, Inspectional Services and Public Works.

3. Does the municipality have a city solicitor or town counsel? Who represents the municipality in negotiations with the cable license applicant? How soon after a cable license application is submitted to the municipality does the negotiator receive application materials and commence negotiations? Does the negotiator have direct authority to offer final terms that may be included in a license to be executed by the municipality? If not, please describe the steps necessary to authorize proposed term sheets.

The City of Boston's Issuing Authority appoints outside counsel to work with the Cable Office on application review and negotiations. Final work product is usually a report and recommendation to the Mayor.

7. Please state the date on which the municipality last conducted a review of its cable-related needs and interests. How often is a full review of cable-related needs and interests necessary? Would any of the intervals identified in the timeline in your response to Question 6 change absent a full review of cable-related needs and interest.

The last comprehensive review (needs assessment, market research and ascertainment) was in 2002, prior to the amendment and transfer of the AT&T Broadband – Comcast license. Boston also conducts annual reviews and audits of its franchises, including construction audits, revenue audits, electrical safety audits, network audits, performance hearings, etc.

The City and the Mass. Municipal Association also participated in a statewide review of cable service, laws and regulation conducted by the Special Commission established (Under Section 238 of Chapter 184 of the Acts of 2002) for the Purpose of Making an Investigation and Study Relative to the Adequacy and Effectiveness of Existing Licensing and Regulations of the Cable Television Operation by Municipalities and the Commonwealth. The Special Commission's was submitted to the Joint Committee on Government Regulations on Dec. 30, 2003.

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